

REMARKS

Applicants provide the following comments.

Claims

Claim 1 has been amended to remove Z-het from R₁.

Upon entry of the amendment, claims 1-104 will be pending in the application. Claims 50-54, 57, 58, and 100-104 have been withdrawn from consideration.

Restriction/Election

Applicants confirm that the compound of Example 76 was elected and note that the restriction requirement has been made final.

Applicants also note that the Office Action indicates that claims 1-49, 55, 56, and 59-99 are generic to the claimed invention and that these claims were examined with respect to the elected species.

Improper Markush Group

The Office Action indicates that A, B, C, D, E, F, X, and R₁ are drawn to improper Markush groups.

Applicants note that the Office Action indicates that the improper Markush rejection would be withdrawn if the claims are amended so that A is A-1; D, E, and F are C; X is CH₂; R₁ is Z-aryl'; and that Z is absent.

Applicants also note that prior art was not found when searching the elected species. The Office Action indicates that the search was expanded. The only document cited in the Office Action is DiMaio, which is no longer relevant. As a result, Applicants are not making the suggested amendments to claim 1.

Double Patenting

The Office Action sets forth the following rejections under the judicially created doctrine of double patenting:

- 1) claims 1-49, 55, 56, and 59-99 as being unpatentable over claims 1-60 of US 6,380,223, and

2) claims 1-49, 55, 56, and 59-99 as being unpatentable over claims 1-82 of US 6,669,893.

A terminal disclaimer is being filed with this response to obviate the rejections.

Claim Rejections-35 U.S.C. 102

The Office Action indicates that if the examined subject matter is extended beyond the elected species that claims 1-4 would be rejected as being clearly anticipated by DiMaio et al. (Reference U). The Office Action refers to compound 9 on page 2699 and explains that the claims are fully met when A is A-1, D, E, and F are C, X is CH₂; and R₁ is Z-het.

Applicants assert that this rejection should be withdrawn because claim 1 has been amended so that R₁ does not include Z-het.

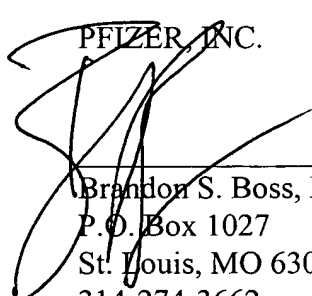
Conclusion

In light of the foregoing, Applicants request withdrawal of the claim rejections and solicit allowance of the claims. The Examiner is invited to contact the undersigned attorney should any issues remain unresolved. If any additional fees are due in connection with the filing of this response, such as fees under 37 C.F.R. §§ 1.16 or 1.17, please charge the fees to Deposit Account No. 19-1025. Any overpayment can be credited to Deposit Account No. 19-1025.

Respectfully submitted,

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October 18, 2005


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